

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

BLUE HILLS OFFICE PARK LLC,  
Plaintiff,  
Defendant-in-  
Counterclaim,

v.

J.P. MORGAN CHASE BANK,  
as Trustee for the Registered Holders of Credit  
Suisse First Boston Mortgage Securities Corp.,  
Commercial Mortgage Pass-Through Certificates,  
Series 1999-C1, and CSFB 1999-C1 ROYALL  
STREET, LLC,  
Defendants,  
Plaintiffs-in-  
Counterclaim,

v.

WILLIAM LANGELIER and  
GERALD FINEBERG,  
Defendants-in-Counterclaim.

CIVIL ACTION  
NO. 05-10506-WGY

**LENDER'S PARTIAL OPPOSITION TO EMERGENCY MOTION OF BLUE HILLS  
OFFICE PARK LLC AND GERALD FINEBERG TO APPROVE SUPERSEDEAS BOND  
AND TO STAY ENFORCEMENT OF JUDGMENT PENDING APPROVAL OF THE  
BOND**

The Lender<sup>1</sup> opposes only one aspect of the relief sought by Gerald Fineberg ("Fineberg") and Blue Hills Office Park LLC ("Blue Hills") in their emergency motion to approve the supersedeas bond Fineberg has submitted to the Court and to stay enforcement of the judgment in this action pending appeal (the "Motion").<sup>2</sup> Specifically, the Lender opposes any

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<sup>1</sup> Defendants and Plaintiffs-in-Counterclaim J.P. Morgan Chase Bank, as Trustee for the Registered Holders of Credit Suisse First Boston Mortgage Securities Corp., Commercial Mortgage Pass-Through Certificates, Series 1999-C1 (the "Trustee") and CSFB 1999-C1 Royall Street, LLC ("CSFB") are referred to collectively herein as the "Lender."

<sup>2</sup> The Lender notes an inconsistency between the title of Fineberg and Blue Hill's motion, which seeks a stay of enforcement "pending approval of the bond," and the relief requested for therein, which is that enforcement be stayed "during the pendency of the[ir] Appeal," Motion at 1, 3.

stay of the issuance of an execution or other proceedings to enforce the judgment as to Blue Hills Office Park LLC on the ground that it has not posted a supersedeas bond and is not otherwise entitled to a stay of enforcement.

While Federal Rule of Civil Procedure 62(d) empowers any appellant to obtain a stay pending appeal by giving a bond, Blue Hills Office Park LLC has not done so. Gerald Fineberg is the only principal named on the bond submitted to the Court. See Motion Ex. B. As a result, he is the only party entitled to a stay on the basis of that bond. See also Local Rule 67.1 (“Surety bonds shall be signed and acknowledged by the party and his surety or sureties.”).

The Lender does not oppose approval of the bond submitted by Fineberg or a stay of enforcement of the judgment as to him pending his appeal.<sup>3</sup>

Respectfully submitted,

CSFB 1999-C1 ROYALL STREET, LLC,  
and J.P. MORGAN CHASE BANK, as  
Trustee for the Registered Holders of Credit  
Suisse First Boston Mortgage Securities  
Corp., Commercial Mortgage Pass-Through  
Certificates, Series 1999-C1,

By their attorneys,

/s/ Bruce E. Falby

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Bruce E. Falby, BBO #544143

Bruce S. Barnett, BBO #647666

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Dated: January 16, 2007

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<sup>3</sup> Counsel for Fineberg and Blue Hills did not attempt to conference this motion with counsel for the Lender prior to filing it, as required by Local Rule 7.1.